

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID J. KRAL,

Plaintiff,

v.

No. 07-14932

Hon. Denise Page Hood

JAMES TABELING, ET. AL.,

Defendants.

**ORDER ACCEPTING REPORT AND RECOMMENDATION
AND
DISMISSING COMPLAINT WITH PREJUDICE**

This matter is before the Court on Magistrate Judge R. Steven Whalen's Report and Recommendation ("R&R") dated December 18, 2008. [**Docket No. 34**]. To date, no objections have been filed to the R&R.

The Court has had an opportunity to review the R&R and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees that Plaintiff's Complaint would be barred by both the doctrine of collateral estoppel and issue preclusion, as he has previously attempted to litigate the identical claim before Judge Ludington. *Smith v. SEC*, 129 F.3d 356, 362 (6th Cir. 1997).

Accordingly,

IT IS ORDERED that Magistrate Judge Whalen's Report and Recommendation [**Docket No. 34, Dec. 18, 2008**] is **ACCEPTED** and **ADOPTED**.

IT IS FURTHER ORDERED that Defendants Motion to Dismiss [**Docket No. 20, filed May 19, 2008**] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's Complaint [**Docket No. 1, filed Nov. 19, 2007**] is **DISMISSED** with **PREJUDICE**.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: January 29, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record and David J. Kral, 791 Laurel Ave., St. Paul, MN 55104 on January 29, 2009, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager